

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

U.S. Bank National Association,

Appellant,

v.

National Medical Imaging, LLC *et al.*,

Appellees.

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: **2:21-cv-04594-MMB**
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ORDER

AND NOW, this 15th day of March, 2022, Defendant/Appellant U.S. Bank National Association (“U.S. Bank”) has moved pursuant to 28 U.S.C. § 158(d) and Federal Rule of Bankruptcy Procedure 8006(f), for Certification of Direct Appeal for the Court of Appeals for the Third Circuit from the Bankruptcy Court’s Order filed October 8, 2021 and entered on October 12, 2021 (Doc. No. 45) on Motions for Summary Judgment in Adv, Proc. No. 20-00219 - elf.

This Request has been opposed by the Appellee, National Medical Imaging, LLC (Doc. No. 9).

Upon review of the very detailed Opinion of Judge Frank of the Bankruptcy Court, and the Briefs filed by the parties in this Court, the request for certification is **GRANTED**.

28 U.S.C. § 158(d)(2)(A) provides that the Court of Appeals “shall have jurisdiction of appeals” from final judgments, orders or decrees entered by a Bankruptcy Court if the Bankruptcy Court or the district court certifies that the appeal meets at least one of the following three requirements:

- (i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of the appeals for the circuit or of the

Supreme Court of the United States, or involves a matter of public importance;

- (ii) the judgment, order or decree involves a question of law requiring resolution of conflicting decisions; or
- (iii) an immediate appeal from judgment, order or decree may materially advance the progress of the case or proceeding in which the appeal is taken....

There is no controlling decision of the Third Circuit. The *Rosenberg* decision, *U.S. Bank, Nat'l Ass'n v. Rosenberg*, 741 F. App'x 887, 889-90 (3d Circ. 2018), is a nonprecedential decision which is not controlling. Both parties agree that the Supreme Court has not decided the pending issue.

This Court believes this is a matter of public importance. The 55-page decision by Judge Frank is very thorough and deals with very complex issues. A direct appeal to the Third Circuit will expedite the final resolution of this dispute, which has been ongoing, for over ten years.

The issues raised are questions of law, about which the parties cite conflicting decisions.

BY THE COURT:

/s/ MICHAEL M. BAYLSON

MICHAEL M. BAYLSON, J.